



## **Pesticides Exempt**

**from the School Posting, Notification, and Recordkeeping Requirements of the Healthy Schools Act of 2000 (HSA)**

To determine whether a particular pesticide product is exempt from the recordkeeping, posting and notification requirements of the HSA, answer the following questions. **Exemptions notwithstanding, DPR recommends that schools keep complete records of *all* pest management activities as part of a sound integrated pest management program.**

- 1.) Is the product an antimicrobial (including sanitizers, disinfectants, and medical sterilants)?**

*Note: The federal language defining antimicrobial pesticides is attached (7 USC 136[mm]). If you can't tell from the label, you can look up specific products on DPR's website at <http://www.cdpr.ca.gov/docs/label/prodnam.htm>*

**YES: EXEMPT from HSA recordkeeping, posting, and notification requirements (sections 17611 and 17612)**

**NO: GO ON TO THE NEXT STEP**

- 2.) Is the product a self-contained bait or trap?**

*Note: Pending further clarification of the law, determining whether a bait or trap is "self-contained" is the responsibility of the user.*

**YES: EXEMPT from HSA recordkeeping, posting, and notification requirements**

**NO: GO ON TO THE NEXT STEP**

**3.) Is the product a gel or paste deployed as crack and crevice treatments?**

*Notes:*

- “Gel or paste” refers to the formulation type. If in doubt, check the label or the DPR databases at <http://www.cdpr.ca.gov/docs/label/m4.htm>
- “Crack and crevice treatment” is defined under the HSA section 17608[b] (attached).

**YES: EXEMPT from HSA recordkeeping, posting, and notification requirements**

**NO: GO ON TO THE NEXT STEP**

**4.) Is the product federally registered?** (That is, do you see “EPA Reg. No.” somewhere on the label?)

**YES: GO TO THE NEXT STEP**

**NO: If the product is not registered, there are two possibilities:**

A.) *The product is illegal for use as a pesticide.*

-OR-

B.) *The product is exempt from registration under the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA) section 25(b), and is **EXEMPT from HSA recordkeeping, posting, and notification requirements.** (GO ON TO STEP 5 to decide if product is 25(b) exempt)*

*Note: California has similar but stricter regulations on exemption from registration—see attached 3 CCR 6147.*

**5.) Is the product exempt from registration under the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA) section 25(b)?**

*Note: Very few products are exempt from registration.*

To find out whether the product is 25(b) exempt, check the ingredients listed on the label. All active ingredients and inert ingredients should be listed. All active ingredients must be listed as exempt in the federal regulations (see attached list of exempt active ingredients or <http://www.epa.gov/pesticides/biopesticides/otherdocs/25blist.htm>), and all inert ingredients must be category "4A" inerts (see attached list of 4A inerts or <http://www.epa.gov/oppbppd1/biopesticides/otherdocs/list4adocs.htm>). See 40 CFR 152.25 (attached). These federally exempt products are also exempt from California registration if the criteria outlined in California Notice to Registrants 2000-6 are met (see <http://www.cdpr.ca.gov/docs/canot/ca00-6.htm>).

**YES: EXEMPT from HSA recordkeeping, posting, and notification requirements**

**NO: NOT EXEMPT. All other registered pesticide products are subject to the posting, recordkeeping, and notification requirements of the Healthy Schools Act of 2000. That is, the product is**

- not exempt from registration,
- legally registered at the state and federal levels,
- not a self-contained bait or trap,
- not an antimicrobial, and
- not a gel/paste used for crack and crevice treatments.

## **Legislative text from the Healthy Schools Act of 2000 pertaining to pesticides exempted from the notification, posting, and recordkeeping requirements**

17610.5. Sections 17611 and 17612 shall not apply to a pesticide product deployed in the form of a self-contained bait or trap, to gel or paste deployed as a crack and crevice treatment, to any pesticide exempted from regulation by the United States Environmental Protection Agency pursuant to the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. Sec. 25 (b)), or to antimicrobial pesticides, including sanitizers and disinfectants.

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### **Definition of crack and crevice treatments under the Healthy Schools Act of 2000**

17609. The definitions set forth in this section govern the construction of this article unless the context clearly requires otherwise:

- (a) “Antimicrobial” means those pesticides defined by the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. Sec. 136(mm)).
  - (b) “Crack and crevice treatment” means the application of small quantities of a pesticide consistent with labeling instructions in a building into openings such as those commonly found at expansion joints, between levels of construction and between equipment and floors...
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### **Definition of antimicrobial pesticides under 7 U.S.C. 136**

#### **(mm) Antimicrobial pesticide**

##### **(1) In general**

The term "antimicrobial pesticide" means a pesticide that -

(A) is intended to -

- (i) disinfect, sanitize, reduce, or mitigate growth or development of microbiological organisms; or
- (ii) protect inanimate objects, industrial processes or systems, surfaces, water, or other chemical substances from contamination, fouling, or deterioration caused by bacteria, viruses, fungi, protozoa, algae, or slime; and

(B) in the intended use is exempt from, or otherwise not subject to, a tolerance under section 346a of title 21 or a food additive regulation under section 348 of title 21.

##### **(2) Excluded products**

The term "antimicrobial pesticide" does not include -

- (A) a wood preservative or antifouling paint product for which a claim of pesticidal activity other than or in addition to an activity described in paragraph (1) is made;
- (B) an agricultural fungicide product; or
- (C) an aquatic herbicide product.

##### **(3) Included products**

The term "antimicrobial pesticide" does include any other chemical sterilant product (other than liquid chemical sterilant, products exempt under subsection (u) of this section), any other disinfectant product, any other industrial microbiocide product, and any other preservative product that is not excluded by paragraph (2).

**Pesticide active ingredients listed as exempt from federal registration under FIFRA 25(b).**

See 40 CFR 152.25 (below) for details.

Castor oil (U.S.P. or equivalent)	Linseed oil
Cedar oil	Malic acid
Cinnamom and cinnamom oil	Mint and mint oil
Citric acid	Peppermint and peppermint oil
Citronella and citronella oil	2-Phenethyl propionate (2-phenylethyl propionate)
Cloves and clove oil	Potassium sorbate
Corn gluten meal	Putrescent whole egg solids
Corn oil	Rosemary and rosemary oil
Cottonseed oil	Sesame (includes ground sesame plant) and sesame oil
Dried blood	Sodium chloride (common salt)
Eugenol	Sodium lauryl sulfate
Garlic and garlic oil	Soybean oil
Geraniol	Thyme and thyme oil
Geranium oil	White pepper
Lauryl sulfate	Zinc metal strips (consisting solely of zinc metal and impurities)
Lemongrass oil	

## Pesticide inert ingredients on the U.S. EPA "4A" inert list.

See September 28, 1994 Federal Register (59 FR 49400) for details.

Acetic acid	Dextrin	Oyster shells
Agar	Dextrose	Paper
Alfalfa	Dolomite	Paprika
Alfalfa meal	Douglas-fir bark, ground	Paraffin wax
Almond hulls	Eggs	Peanut butter
Almond shells	Egg Shells	Peanut oil
Alpha cellulose	Edible fish meal	Peanuts
Apple pomace	Edible fish oil	Peanut shells
Attapulgitite-type clay	Flour	Peat moss
Beef fat	Fuller's earth	Pecan shell flour
Beeswax	Gelatin	Pectin
Beet powder	Glue, as depolymerized animal collagen	Polyethylene film
Bentonite	Glycerin	Polyethylene pellets
Bone Meal	Granite	Potatoes
Bran	Grape pomace	Pumice
Bread crumbs	Graphite	Raisins
Calcareous shale	Ground oats	Red cedar chips
Calcite	Guar gum	Red dog flour
Calcium carbonate	Gum arabic	Rice
Canary seed	Gum tragacanth	Rice hulls
Cane syrup	Gypsum	Rubber
Carbon dioxide	Hearts of corn flour	Rye Flour
Cardboard	Hydrogenated vegetable oils	Safflower oil
Carrageenan	Honey	Sawdust
Carrots	Invert sugar	Seaweed, edible
Casein	Invert syrup	Shale
Cheese	Kaolinite-type clay	Soapstone
Chlorophyll	Lactose	Sodium bicarbonate
Cinnamon	Lanolin	Sodium chloride
Citric acid	Lard	Sorbitol
Citrus meal	Latex	Soybean hulls
Citrus pectin	Lecithin	Soybean meal
Citrus pulp	Lime	Soybean oil
Clam shells	Limestone	Soy flour
Cloves	Linseed oil	Soy protein
Cocoa	Malt flavor	Sucrose
Cocoa shells	Meat meal	Sugarbeet meal
Coco shell flour	Meal scraps	Sunflower seeds
Cod liver oil	Medicated feed	Tallow
Coffee grounds	Mica	Vanillin
Cookies	Milk	Vermiculite
Cork	Millet seed	Vitamin C
Corn	Mineral oil, U.S.P.	Vitamin E
Corn cobs	Molasses	Walnut flour
Corn flour	Montmorillonite- type clay	Walnut shells
Corn meal	Nitrogen	Water
Corn oil	Nutria meat	Wheat
Cornstarch	Nylon	Wheat germ oil
Corn syrup	Oatmeal	Whey
Cotton	Oats	Wintergreen oil
Cottonseed meal	Olive oil	Wool
Cottonseed oil	Onions	Xanthan gum
Cracked oats	Orange pulp	Yeast
Cracked wheat		

**Federal regulations pertaining to exemption from registration under FIFRA 25(b)**  
(40 CFR 152.25)

**Code of Federal Regulations**  
**Title 40, Volume 16**

**Sec. 152.25 Exemptions for pesticides of a character not requiring FIFRA regulation.**

The pesticides or classes of pesticides listed in this section have been determined to be of a character not requiring regulation under FIFRA, and are therefore exempt from all provisions of FIFRA when intended for use, and used, only in the manner specified.

- (a) Treated articles or substances. An article or substance treated with, or containing, a pesticide to protect the article or substance itself (for example, paint treated with a pesticide to protect the paint coating, or wood products treated to protect the wood against insect or fungus infestation), if the pesticide is registered for such use.
- (b) Pheromones and pheromone traps. Pheromones and identical or substantially similar compounds labeled for use only in pheromone traps (or labeled for use in a manner which the Administrator determines poses no greater risk of adverse effects on the environment than use in pheromone traps), and pheromone traps in which those compounds are the sole active ingredient(s).
  - (1) For the purposes of this paragraph, a pheromone is a compound produced by an arthropod which, alone or in combination with other such compounds, modifies the behavior of other individuals of the same species.
  - (2) For the purposes of this paragraph, a synthetically produced compound is identical to a pheromone only when their molecular structures are identical, or when the only differences between the molecular structures are between the stereochemical isomer ratios of the two compounds, except that a synthetic compound found to have toxicological properties significantly different from a pheromone is not identical.
  - (3) When a compound possesses many characteristics of a pheromone but does not meet the criteria in paragraph (a)(2) of this section, it may, after review by the Agency, be deemed a substantially similar compound.
  - (4) For the purposes of this paragraph, a pheromone trap is a device containing a pheromone or an identical or substantially similar compound used for the sole purpose of attracting, and trapping or killing, target arthropods. Pheromone traps are intended to achieve pest control by removal of target organisms from their natural environment and do not result in increased levels of pheromones or identical or substantially similar compounds over a significant fraction of the treated area.
- (c) Preservatives for biological specimens.
  - (1) Embalming fluids.
  - (2) Products used to preserve animal or animal organ specimens, in mortuaries, laboratories, hospitals, museums and institutions of learning.
  - (3) Products used to preserve the integrity of milk, urine, blood, or other body fluids for laboratory analysis.
- (d) Vitamin hormone products. Vitamin hormone horticultural products consisting of mixtures of plant hormones, plant nutrients, inoculants, or soil amendments, which meet the following criteria:
  - (1) The product, in the undiluted package concentration at which it is distributed or sold, meets the criteria of Sec. 156.10(h)(1) of this chapter for Toxicity Category III or IV; and
  - (2) The product is not intended for use on food crop sites, and is labeled accordingly.
- (e) Foods. Products consisting of foods and containing no active ingredients, which are used to attract pests.
- (f) Natural cedar.
  - (1) Natural cedar blocks, chips, shavings, balls, chests, drawer liners, paneling, and needles that meet all of the following criteria:
    - (i) The product consists totally of cedarwood or natural cedar.
    - (ii) The product is not treated, combined, or impregnated with any additional substance(s).
    - (iii) The product bears claims or directions for use solely to repel arthropods other than ticks or to retard mildew, and no additional claims are made in sale or distribution. The labeling must be limited to specific arthropods, or must exclude ticks if any general term such as "arthropods," "insects," "bugs," or any other broad inclusive term, is used. The exemption does not apply to natural cedar products claimed to repel ticks.
  - (2) The exemption does not apply to cedar oil, or formulated products which contain cedar oil, other cedar extracts, or ground cedar wood as part of a mixture.
- (g) Minimum risk pesticides—

- (1) Exempted products. Products containing the following active ingredients are exempt from the requirements of FIFRA, alone or in combination with other substances listed in this paragraph, provided that all of the criteria of this section are met.

Castor oil (U.S.P. or equivalent)  
Cedar oil  
Cinnamon and cinnamon oil  
Citric acid  
Citronella and citronella oil  
Cloves and clove oil  
Corn gluten meal  
Corn oil  
Cottonseed oil  
Dried blood  
Eugenol  
Garlic and garlic oil  
Geraniol  
Geranium oil  
Lauryl sulfate  
Lemongrass oil  
Linseed oil  
Malic acid  
Mint and mint oil  
Peppermint and peppermint oil  
2-Phenethyl propionate (2-phenylethyl propionate)  
Potassium sorbate  
Putrescent whole egg solids  
Rosemary and rosemary oil  
Sesame (includes ground sesame plant) and sesame oil  
Sodium chloride (common salt)  
Sodium lauryl sulfate  
Soybean oil  
Thyme and thyme oil  
White pepper  
Zinc metal strips (consisting solely of zinc metal and impurities)

- (2) Permitted inerts. A pesticide product exempt under paragraph (g)(1) of this section may only include inert ingredients listed in the most current List 4A. This list is updated periodically and is published in the Federal Register. The most current list may be obtained by writing to Registration Support Branch (4A Inerts List) Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington DC 20460.
- (3) Other conditions of exemption. All of the following conditions must be met for products to be exempted under this section:
- (i) Each product containing the substance must bear a label identifying the name and percentage (by weight) of each active ingredient and the name of each inert ingredient.
  - (ii) The product must not bear claims either to control or mitigate microorganisms that pose a threat to human health, including but not limited to disease transmitting bacteria or viruses, or claims to control insects or rodents carrying specific diseases, including, but not limited to ticks that carry Lyme disease.
  - (iii) The product must not include any false and misleading labeling statements, including those listed in 40 CFR 156.10(a)(5)(i) through (viii).

[53 FR 15977, May 4, 1988, as amended at 59 FR 2751, Jan. 19, 1994; 61 FR 8878, Mar. 6, 1996]

**California regulations pertaining to pesticides exempt from registration**  
(3 CCR 6147)

**Title 3 (Food and Agricultural Code), Division 6, Chapter 2**  
**Section 6147. Exempted Pesticide Products.**

- (a) Manufacturers of, importers of, and dealers in the following pesticide products or classes of pesticide products are exempt from the requirements of Division 7 of the Food and Agricultural Code, provided the pesticide products are exempt pursuant to section 25(b)(2) of the Federal Insecticide, Fungicide, and Rodenticide Act [7 U.S.C. sec. 136w(b)(2)]:
- (1) Pheromones and identical or substantially similar compounds labeled for use only in pheromone traps (or labeled for use in a manner which the Director determines poses no greater risk of adverse effects on the environment than use in pheromone traps), and pheromone traps in which those compounds are the sole active ingredient(s), as specified in 40 Code of Federal Regulations 152.25(b).
  - (2) Preservatives for biological specimens, including:
    - (A) Embalming fluids;
    - (B) Products used to preserve animal or animal organ specimens, in mortuaries, laboratories, hospitals, museums and institutions of learning; and
    - (C) Products used to preserve the integrity of milk, urine, blood, or other body fluids for laboratory analysis.
  - (3) Products consisting of foods that are used to attract pests and which contain no active ingredient(s).
  - (4) (A) Natural cedar blocks, chips, shavings, balls, chests, drawer liners, paneling, and needles that meet all of the following criteria:
    1. The product consists totally of cedar wood or natural cedar.
    2. The product is not treated, combined, or impregnated with any additional substance(s).
    3. The product bears claims or directions for use solely to repel arthropods other than ticks or to retard mildew, and no additional claims are made in sale or distribution. The labeling must be limited to specific arthropods, or must exclude ticks if any general term such as "arthropods," "insects," "bugs," or any other broad inclusive term is used.(B) The exemption does not apply to natural cedar products claimed to repel ticks. The exemption also does not apply to cedar oil, or formulated products, which contain cedar oil, other cedar extracts, or ground cedar wood as part of a mixture.
  - (5) (A) Products containing the following active ingredients alone or in combination with other substances listed in paragraph (5)(A), provided that all the criteria specified in paragraphs (5)(C) and (5)(D) are met:

Castor oil (U.S.P. or equivalent)  
Cedar oil<sup>1</sup>  
Cinnamon  
Cinnamon oil<sup>1</sup>  
Citric acid<sup>1</sup>  
Citronella (non-topical uses only)  
Citronella oil (non-topical uses only)  
Cloves<sup>2</sup>  
Clove oil<sup>1, 2</sup>  
Corn gluten meal  
Corn oil  
Cottonseed oil  
Dried blood  
Eugenol<sup>1, 2</sup>  
Garlic  
Garlic oil<sup>1</sup>  
Geraniol<sup>2</sup>  
Geranium oil<sup>2</sup>  
Lauryl sulfate<sup>1</sup>  
Lemongrass oil<sup>1</sup>  
Linseed oil  
Malic acid<sup>1</sup>  
Mint

Mint oil<sup>1</sup>  
Peppermint<sup>2</sup>  
Peppermint oil<sup>1,2</sup>  
2-Phenethyl propionate (2-phenylethyl propionate)<sup>1</sup>  
Potassium sorbate<sup>1</sup>  
Putrescent whole egg solids  
Rosemary<sup>2</sup>  
Rosemary oil<sup>1,2</sup>  
Sesame (includes ground sesame plant)  
Sesame oil  
Sodium chloride (common salt)  
Sodium lauryl sulfate<sup>1,2</sup>  
Soybean oil  
Thyme<sup>2</sup>  
Thyme oil<sup>1,2</sup>  
White pepper<sup>1</sup>  
Zinc metal strips (consisting solely of zinc metal and impurities)

<sup>1</sup> Products containing 8.5% or more of this active ingredient in the formulated product must at a minimum bear the signal word “CAUTION,” the phrase “Keep Out of Reach of Children,” appropriate precautionary language, and a requirement for appropriate protective eyewear and gloves.

<sup>2</sup> Products containing this active ingredient intended for topical application to human skin must at a minimum bear the signal word “CAUTION,” the phrase “Keep Out of Reach of Children,” a dermal sensitization precautionary statement, a prohibition against application to the hands of children, and use directions requiring adult supervision during application to children.

- (B) Topical use products containing less than or equal to 1% of the following active ingredients alone or in combination with each other, provided: the product label carries as a minimum the signal word “CAUTION,” the phrase “Keep Out Of Reach of Children,” a dermal sensitization precautionary statement, a prohibition against application to the hands of children, and use directions requiring adult supervision during application to children, and (ii) all the criteria specified in paragraphs (5)(C) and (5)(D) are met:  
Citronella  
Citronella oil
- (C) A pesticide product exempt under paragraphs (5)(A) and (5)(B) of subsection (a) may include as inert ingredients only those substances listed in the U.S. Environmental Protection Agency’s most current List 4A “Inerts of Minimal Concern.” U.S. EPA’s list of minimal risk inert ingredients is updated periodically and is published in the Federal Register.
- (D) In addition, all of the following conditions must be met for products to be exempted under subsection (a)(5):
1. Each product containing the substance must bear a label identifying the name and percentage (by weight) of each active ingredient and the name of each inert ingredient.
  2. The product must not bear claims either to control or mitigate microorganisms that pose a threat to human health, including but not limited to disease transmitting bacteria or viruses, or claims to control insects or rodents carrying specific diseases, including, but not limited to ticks that carry Lyme disease.
  3. The product must not include any false and misleading labeling statements, including those listed in 40 CFR 156.10(a)(5)(i) through (viii).
- (b) Whenever the manufacturer of, importer of, or dealer in any product exempted pursuant to this section has factual or scientific evidence of any adverse effect or risk to human health or the environment that has not previously been submitted to the department, the manufacturer, importer, or dealer shall report the evidence to the department within 60 days of learning of the information.

NOTE: Authority cited: Section 11456, 12781, and 12803, Food and Agricultural Code.  
Reference: Section 12803, Food and Agricultural Code.